HUTCHINSON, C.J. & TYSER, J.

ZEHRA KHANIM v. CONSTANTI DIANELLO

I am not aware of any Law by virtue of which this fact would make any difference. *If the right of the Church does not expire with the right* of the registered proprietor, it is difficult to see why the extension of inheritance was sought. On these points I give no opinion because they were not raised by either side before us.

It must not however be supposed that in giving judgment according to the agreement of the parties I give any judgment on these points.

The judgment given in accordance with the agreement of the parties will not bind the Land Registry Office on these points, nor will it bind persons who are not parties to the action, except in so far as the decision on the point of Law is binding on this Court.

The judgment is for the Plaintiffs for £120 payable on the grant being made of extension of inheritance of the site and buildings together.

The Plaintiffs to have the costs in this Court and the Court below.

HUTCHINSON, C.J. & TYSER, J. 1903

November 16

[HUTCHINSON, C.J. AND TYSER, J.]

NEOCLE SARIPOGLOU, *Plaintiff,*

v.

J. B. GOODING, *Defendant.*

EX PARTE MARIA NASRI.

JURISDICTION—DISTRICT COURT.

A District Court has no jurisdiction to make an order cancelling the registration under Law VIII of 1891 *of the judgment of another District Court.*

This is an appeal by the Plaintiff from an order made by the District Court of Famagusta on the 26th November last directing that certain memoranda lodged by the Plaintiff on the property of Maria Nasri in Famagusta District be removed.

The facts so far as material to this judgment are as follows:

The Plaintiff, being a judgment creditor of the Defendant under a judgment dated 23rd of March, 1903, of the District Court of Nicosia in an action in that Court, had obtained a writ of attachment of a debt due by Maria Nasri to the judgment debtor; and, on the appearance of the parties in pursuance of that writ, the District Court of Nicosia on the 22nd June, 1903, ordered "that Maria Nasri, debtor to the Defendant in the sum of £25, do pay to the Plaintiff in this action the said sum of £25 in satisfaction of the judgment issued in this action and dated 23rd March, 1903."

The Plaintiff *then lodged the memoranda above mentioned, treating* this order as a judgment and himself as a judgment creditor of Maria

under it, for the purpose of rendering her immoveable property in Famagusta District a security for the £25 due to him from her under the order.

Maria thereupon applied to the District Court of Famagusta to have the property " set free;" and on the 26th November that Court on her application made the order which is now under appeal. The order purports to be made in the action in the District Court of Nicosia.

Pascal for the Plaintiff (Appellant).

Essayan for the Applicant (Respondent).

The Defendant did not appear.

Judgment: The first question is whether the District Court of Famagusta had jurisdiction to make the order. *December* 28

The memoranda were lodged under Law VIII of 1894, which enacts that a judgment creditor may render the immoveable property of the judgment debtor a security for the payment of his judgment debt by registering his judgment at the Land Registry Office; and that registration shall be effected by depositing at the office of the Land Registry of the District within which the property sought to be charged is situate an office copy of the judgment and a memorandum describing the property and claiming that the debtor's interest in it may remain answerable for the payment of the debt. Neither this Law nor any of the Laws which have amended it contains any express provision for a case in which the person on whose property a memorandum has been wrongly placed seeks to have it removed. It does however provide for orders being made to prolong the registration, or to restrain other persons from dealing with the property, or to sell the property, (Sec. 7 and 9); and such orders are to be made by " the Court." As this Law takes the place of Sec. 13–16 of Law X of 1885, which previously dealt with the same subject and which are repealed by this Law, we infer that the words " the Court " have the same meaning as in Law X of 1885, that is (as defined in Sec. 1 of that Law), the Court before which the action (in which any application or order is made or any writ is issued) has been instituted.

It was the intention of both these Laws, and we think it is the natural and convenient course, that any orders which require to be made in consequence of the registration of a judgment should be made by the Court in which the action was instituted.

In our opinion therefore if any Court had power to make the order now under appeal, as to which we need not give any opinion, it was the District Court of Nicosia and not that of Famagusta.

The appeal must therefore be allowed with costs in both Courts.

HUTCHINSON, C. J. & TYSER, J.

NEOCLE SARIPOGLOU v. J. B. GOODING

The other question which was argued on the appeal was, whether or not the order of the District Court of Nicosia of the 22nd June was a "judgment" and constituted the Plaintiff a "judgment creditor" of Maria, in the sense in which those terms are used in Law VIII of 1894, so as to enable the Plaintiff to register under that Law. As it is not necessary to decide this for the purpose of disposing of the appeal we had better give no opinion on it.

HUTCHINSON, C.J. & TYSER, J. 1903

November 24

[HUTCHINSON, C.J. AND TYSER, J.]

PAULI HAJI DEMETRI, *Plaintiff,*

v.

ANASTASSI HAJI DEMETRI, *Defendant.*

MULK IMMOVEABLE PROPERTY—INFORMAL SALE—RIGHT TO PROFITS WHICH HAVE ACCRUED BEFORE SALE SET ASIDE—INFANT.

The Plaintiff obtained against the Defendant, who was his brother, a writ of partition of certain mulk property occupied by the Defendant under an informal sale from their father, and under the partition had certain of the property allotted to him. The Plaintiff now claimed the profits of the property allotted to him for 15 years past.

HELD: *that he was not entitled to the profits of the property allotted to him.*

A person holding mulk immoveable property as vendee under an informal sale without opposition cannot be made to account for the profits.

When the legal owner recovers such property from the person so holding it, he is entitled to the profits from the date of the service of the writ.

APPEAL of the Plaintiff from the judgment of the District Court of Larnaca.

The claim was to recover the value of 15 years' produce of certain trees alleged to be the property of the deceased father of the Plaintiff and Defendant.

At the hearing of the case no witnesses were called; the facts were admitted, and, so far as they are material, are as follows:

1. Plaintiff and Defendant were children of the same father.
2. In 1876 their father sold to the Defendant by an informal sale certain property including the trees in question.
3. In 1886 the father died leaving children and a widow.
4. Plaintiff was a posthumous child born after the death of his father.
5. Plaintiff had no guardian.
6. In 1895 the Plaintiff brought an action for partition, and in 1903 judgment was given in his favour, and the trees, the produce of which was in question, were allotted to him as part of his share.
7. The Defendant had been in the enjoyment of these trees for a period of 15 years.